



COMMONWEALTH of VIRGINIA

DEPARTMENT OF EDUCATION

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February 12, 2007

The Honorable Ray Simon
Deputy Secretary
Office of Elementary and Secondary Education
United States Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

Dear Deputy Secretary Simon:

I am responding to your letter dated January 31, 2007, regarding your concerns related to the proposals being made by some of Virginia's school divisions that may cause them to be out of compliance with certain assessment requirements for limited English proficient students as stated in the Elementary and Secondary Education Act of 1965 (ESEA) as amended by the *No Child Left Behind Act of 2001* (NCLB).

Your letter requested that a response be received by your office within 15 calendar days describing the steps that the Virginia Department of Education will take regarding the appropriate assessment of limited English proficient (LEP) students. It is important to note that no school divisions are currently out of compliance with the assessment requirements for LEP students under NCLB; however, as requested, I have outlined the steps below that have already been taken, as well as those that will be taken to ensure the appropriate assessment of LEP students.

First, I want to be clear that school divisions in Virginia have already received instructions regarding the assessment requirements for LEP students through the Virginia Department of Education Standards of Learning (SOL) Assessment manual (http://www.doe.virginia.gov/VDOE/Assessment/VA0607resource_manual.pdf) and related training for Division Directors of Testing and Title III Coordinators. The 2006-2007 Virginia SOL Assessments Resource Manual, Section I, Limited English Proficient Students: Guidelines for Participation in the Virginia State Assessment

Program, instructs school divisions regarding who should be tested as follows:

All students who are in grades 3 through 8, and those enrolled in specific high school courses in The Commonwealth of Virginia are expected to participate in the SOL assessments. . . . LEP students in the first year of enrollment in a U.S. school may also receive a one-time exemption for the Reading tests in grades 3 through 8. Determination as to how LEP students will participate in the SOL assessments should be made according to the guidelines found in Section III, Procedures for Determining LEP Students' Participation on the SOL Assessments.

Secondly, I will continue to support local division superintendents throughout Virginia in their desire to work with lawmakers and the United States Department of Education to provide assessments that are reliable and valid for the population they are assessing. I, along with many others, continue to struggle with a requirement that expects students who are just learning English to perform at grade level 12 months after their arrival in the United States. The accommodations outlined in your letter are already in use throughout the Commonwealth as appropriate. However, the accommodations do not address the fundamental question about the reliability and validity of using a grade level assessment in reading for a student with limited English proficiency who has been in the United States less than 12 months.

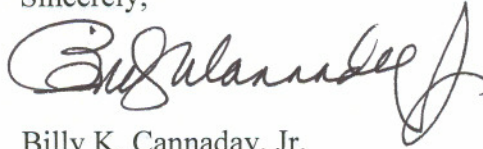
Experience has taught Virginia how to make standards work for all children, including children learning English, particularly Hispanic students. The grade 3 reading pass rate for Hispanic students has risen by 9 points since 2002 from 59 percent to 68 percent in 2005. Even larger gains have been made in grade 5 reading pass rates - 13 points from 68 percent to 81 percent - for that same period. Furthermore, from 1998 to 2005, NAEP reading performance of Hispanic students for grades 4 and 8 approximated double digit increases in reading achievement at the basic and proficient levels as well. We are proud of the sustained commitment our teachers, administrators, and schools have made to the academic progress of our children and I am confident that they will continue to do so. Virginia has been a leader in the standards movement as recently stated in the 2006 Fordham Report and remains committed to developing fair, valid, and reliable assessments to measure academic progress on quality standards for all students.

Third, within the next month, I will inform local school divisions that, as required under Section 1232c (b) of the General Education Provisions Act, a state may withhold approval, in whole or in part, of the application of a local school division for funds under the *No Child Left Behind Act of 2001* until the state is satisfied that the requirements of the law have been met.

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Finally, I will continue to work with local school divisions to ensure that the goal of the Virginia Board of Education, ensuring that all Virginia children, including LEP students, achieve excellence, is attained throughout the state.

Sincerely,

A handwritten signature in black ink, appearing to read "Billy K. Cannaday, Jr.", written in a cursive style.

Billy K. Cannaday, Jr.
Superintendent of Public Instruction

BKCr/rls

C: Dr. Mark E. Emblidge, President, Virginia Board of Education